

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
ANGELA DEL VILLAR,

Plaintiff,

-v-

NEIL FRANCOIS,

Defendant.
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19-CV-10891 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On November 29, 2022, the Court granted Plaintiff's motion for default judgment against Defendant Neil Francois and referred this matter to Magistrate Judge Katharine Parker for an inquest as to damages. *See* ECF No. 107. On March 20, 2023, Francois filed a letter requesting vacatur of the default judgment, stating that he changed his address on July 1, 2021, and "never received notice of any Court proceedings." ECF No. 117. By Order dated March 22, 2023, the Court directed Plaintiff to respond by April 12, 2023, and granted Francois until April 26, 2023, to file a reply. *See* ECF No. 118. Plaintiff filed a letter opposing Francois's request, *see* ECF No. 121, but Francois did not file a reply.

It is hereby ORDERED that all parties appear for an **in-person** conference with the Court on **June 14, 2023, at 3:00 p.m.**, in Courtroom 1105 of the Thurgood Marshall Courthouse, 40 Centre Street, New York, New York.

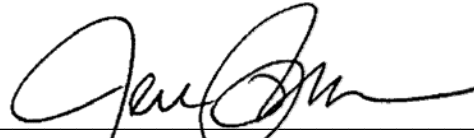
At the conference, the parties should be prepared to discuss the "three principal factors" that govern Francois's request: "(1) whether the default was willful, (2) whether the defendant demonstrates the existence of a meritorious defense, and (3) whether, and to what extent, vacating the default will cause the nondefaulting party prejudice." *State St. Bank & Tr. Co. v. Inversiones Errazuriz Limitada*, 374 F.3d 158, 166-67 (2d Cir. 2004) (quoting *S.E.C. v. McNulty*, 137 F.3d 732, 738 (2d Cir. 1998)). The parties should also be prepared to address any other "relevant equitable factors" that "may also be considered," including "whether the failure to follow a rule of procedure was a mistake made in good faith and whether the entry of default would bring about a harsh or unfair result." *Enron Oil Corp. v. Diakuhara*, 10 F.3d 90, 96 (2d Cir. 1993). In the event that the Court concludes it is necessary or appropriate, **Francois may be called upon to testify under oath. To that end, Plaintiff should be prepared to examine him.**

Francois is warned that failure to appear at the conference will result in the Court denying his request to vacate the default judgment.

The Clerk of Court is directed to mail a copy of this Order to Francois. In addition, and out of an abundance of caution, Plaintiff shall serve a copy on Francois both (1) by mail (to the letter set forth in Francois's March 20, 2023 letter) and (2) by e-mail and, no later than **May 12, 2023**, file proof of such service.

SO ORDERED.

Dated: May 5, 2023
New York, New York

A handwritten signature in black ink, appearing to read 'Jesse M. Furman', is written over a horizontal line.

JESSE M. FURMAN
United States District Judge